

ESTTA Tracking number: **ESTTA745447**

Filing date: **05/10/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Sazerac Brands, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	10400 Linn Station Road, Suite 300 Louisville, KY 40223 UNITED STATES		

Attorney information	Vincent J. Badolato Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, vbadolato@cooley.com, pwillsey@cooley.com, mk-lumpp@cooley.com Phone:202-728-7800
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Registration Subject to Cancellation

Registration No	4506303	Registration date	04/01/2014
Registrant	K. Hansotia & Co., Inc. 6600 Hiatus Road Tamarac, FL 33321 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 2014/01/17 First Use In Commerce: 2014/01/17
All goods and services in the class are cancelled, namely: Bourbon; gin; scotch; vodka; whiskey; wine

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Sazerac v. K. Hansotia - Petition to Cancel (BLACK DRAGON).pdf(94179 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mary J. Klumpp/
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Name	Mary J. Klumpp
Date	05/10/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 4,506,303
For the Trademark BLACK DRAGON
Registered on April 1, 2014

Sazerac Brands, LLC,)	
)	
Petitioner,)	
)	Cancellation No.
v.)	
)	
K. Hansotia & Co., Inc.,)	
)	
Respondent.)	
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PETITION TO CANCEL

Sazerac Brands, LLC (“Petitioner”), a Delaware limited liability company having its principal place of business at 10400 Linn Station Road, Suite 300, Louisville, Kentucky 40223, believes that it has been and will continue to be damaged by the continued registration of the mark BLACK DRAGON, United States Registration No.4,506,303, issued on April 1, 2014, to K. Hansotia & Co., Inc. (“Respondent”), and hereby petitions to cancel the same pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

As grounds for its petition, Petitioner alleges as follows.

1. Petitioner, through its parent company Sazerac Company, Inc. (“Sazerac Company”), markets and sells a number of different types and brands of alcoholic beverages and distilled spirits, including vodkas, whiskeys, tequilas, liqueurs, and other spirits. Sazerac

Company has marketed and sold alcoholic beverages and distilled spirits in the United States for over a century.

2. Petitioner has a bona fide intent to offer distilled spirits in connection with the BLACK DRAGON mark (“Petitioner’s Mark”).

3. On February 29, 2016, Petitioner filed an application with the United States Patent and Trademark office (“PTO”) to register the BLACK DRAGON mark in connection with “[a]lcoholic beverages (except beers)” in International Class 33, as evidenced by Application Serial No. 86/923,206 (the “Application”).

4. On April 14, 2016, the PTO issued an Office Action initially refusing to register Petitioner’s Mark. Specifically, the PTO refused registration of Petitioner’s Mark pursuant to Section 2(d) of the Lanham Act because the Examining Attorney concluded that Petitioner’s Mark, when used on or in connection with the goods identified in the Application, is likely to cause confusion with Respondent’s registered BLACK DRAGON mark (Reg. No. 4,506,303).

5. United States Registration No. 4,506,303 for the mark BLACK DRAGON issued on April 1, 2014, in connection with “[b]ourbon; gin; scotch; vodka; whiskey; wine” in International Class 33 (the “Cited Registration”).

6. Petitioner is informed and believes that Respondent owns the Cited Registration and that Respondent’s address is 6600 Hiatus Road, Tamarac, Florida 33321.

7. The continued existence of the Cited Registration will damage Petitioner because it could prevent Petitioner from lawfully obtaining a registration for Petitioner’s Mark.

GROUND FOR CANCELLATION:

**REGISTRANT HAS ABANDONED THE MARK
IN THE CITED REGISTRATION**

8. Petitioner repeats and realleges each and every allegation set forth in Paragraphs 1 through 7 as if fully set forth herein.

9. The Cited Registration should be cancelled under 15 U.S.C. § 1064(3) due to abandonment.

10. 15 U.S.C. § 1127 provides that a mark shall be deemed to be abandoned “[w]hen its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances... ‘Use’ of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.”

11. On information and belief, Respondent has never legitimately used the BLACK DRAGON mark in U.S. commerce to sell or offer for sale the goods identified in the Cited Registration.

12. Based on the results of an investigation conducted on behalf of Petitioner, on information and belief, even if the BLACK DRAGON mark was used by Respondent in connection with the goods identified in the Cited Registration, such use has now been discontinued and Respondent lacks the intent to resume such use.

13. Petitioner is and will continue to be harmed by the continued registration of the BLACK DRAGON mark in the Cited Registration.

14. Since Respondent no longer uses nor intends to resume use of the BLACK DRAGON mark in commerce, the mark identified in the Cited Registration has been abandoned by the Respondent and the Cited Registration should, therefore, be cancelled.

WHEREFORE, Petitioner requests that the present Petition to Cancel be sustained and that Registration No. 4,506,303 be cancelled on the ground that the subject mark has been abandoned. The required fee is submitted herewith.

Respectfully submitted,

Dated: May 10, 2016

By: /Vincent J. Badolato/
Peter J. Willsey, Esq.
Vincent J. Badolato, Esq.
Mary J. Klumpp, Esq.
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(202) 728-7800

Attorneys for Sazerac Brands, LLC

CERTIFICATE OF SERVICE

I hereby certify that I mailed the foregoing **PETITION TO CANCEL** to the listed Attorney of Record for Respondent by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Pablo Meles, P.A.
304 Indian Trace No. 710
Weston, Florida 33326

Date: May 10, 2016

By: /Mary J. Klumpp/
Mary J. Klumpp

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